

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Byoung S. Kwon  
Serial No.:  
Filed:  
For: NEW RECEPTOR AND RELATED PRODUCTS AND METHODS  
Group No: 1800  
Docket No: IND4-DI1

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

DECLARATION OF BIOLOGICAL CULTURE DEPOSIT

I, Christopher A. Michaels

1. That the following culture(s) referred to in the specification of this application have been deposited:

Escherichia coli - Human 4-1BB cDNA (pH4-1bb) NRRL B-21131

2. That the date of the above deposit is:

☒ before the U.S. filing date of this application.

☐ after the U.S. filing date of this application and proof that the culture identified above is the same culture described in the application as filed is attached.

3. That the name and address of the depository is:

Agricultural Research Service Culture Collection  
Midwest Area National Center for Agriculture Utilization Research  
Agriculture Research Service, U.S. Department of Agriculture  
1815 North University Street, Peoria, Illinois 61604 U.S.A.

4. That a statement that the culture deposited with the above named depository was viable and was capable of reproduction, if appropriate, on the date of deposit is attached. Such statement is executed by:

a. ☒ the depository

b. ☐ the applicant

c. ☐ a competent third party

5. That with respect to the permanence of the culture deposit:

a. ☒ the depository is an official depository in accordance with the Budapest Treaty for the above deposited culture.

b. ☒ the depository affords permanence of the deposit for at least 30 years or at least 5 years after the most recent storage request, whichever is longest.

- c. [X] evidence that permanent availability of the microorganism is assured is provided in the form of the attached copy of the contract with the above-mentioned depository with respect to the deposited culture(s)

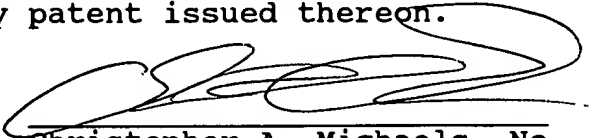
I affirm that should the microorganism(s) mutate, become nonviable or be inadvertently destroyed, applicants will replace such microorganism(s) for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the life of any patent issued on the above-mentioned application, whichever period is longer.

6. That with respect to availability of the culture, I affirm that the deposit has been made under conditions of assurance of (a) ready accessibility thereto by the public if a patent is granted whereby all restrictions to the availability to the public of the culture so deposited will be irrevocably removed upon the granting of the patent (PEP 608.01 (p)), and (b) access to the culture will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 CAR 1.14 and 35 US 122.

- [X] Evidence of the accessibility of the culture as set forth above is provided in the form of the attached copy of the contract with the above mentioned depository with respect to the deposited cultures.

7. That I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 6/1/95

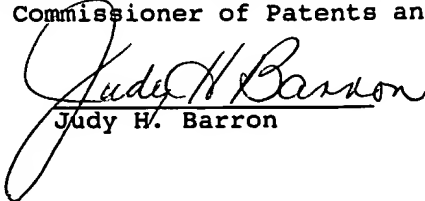
  
Christopher A. Michaels, No. 34,390  
Attorney for Applicant  
BARNARD, BROWN & MICHAELS  
306 E. State Street, Suite 220  
Ithaca, New York 14850  
(607) 273-1711  
(607) 273-2609 (Fax)

CERTIFICATE OF MAILING

EXPRESS MAIL NO: TB752390738

DATE: 6/5/95

I hereby certify that this paper of fee is being deposited with the United States Postal Services's Express Mail Post Office To Addressee service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

  
Judy H. Barron

BUDEPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSE OF PATENT PROCEDURES

INTERNATIONAL FORM

TO Dr. Bjong Kwon  
Dept. of Microbiology & Immunology  
Indiana University School  
of Medicine  
635 Barnhill Drive, Room 255  
Indianapolis, IN 46202-5120  
NAME AND ADDRESS  
OF DEPOSITOR

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

I. IDENTIFICATION OF THE MICROORGANISM

Identification reference given by the  
DEPOSITOR:

*Escherichia coli*  
Human 4-1BBcDNA(pH4-1BB)

Accession number given by the  
INTERNATIONAL DEPOSITARY AUTHORITY:

NRRL B-21131

II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION

The microorganism identified under I. above was accompanied by:

- ☐ a scientific description  
☒ a proposed taxonomic designation

(Mark with a cross where applicable)

III. RECEIPT AND ACCEPTANCE

This International Depositary Authority accepts the microorganism identified under I.  
above, which was received by it on August 25, 1993 (date of the original deposit)<sup>1</sup>

IV. RECEIPT OF REQUEST FOR CONVERSION

The microorganism identified under I. above was received by this International  
Depositary Authority on (date of the original deposit) and  
a request to convert the original deposit to a deposit under the Budapest Treaty  
was received by it on (date of receipt of request for conversion)

V. INTERNATIONAL DEPOSITARY AUTHORITY

Name: Agricultural Research Culture  
Collection (NRRL)  
International Depositary Authority  
Address: 1815 N. University Street  
Peoria, Illinois 61604 U.S.A.

Signature(s) of person(s) having the power  
to represent the International Depositary  
Authority or of authorized official(s):

Date:

2. Aug 30, 1993

<sup>1</sup> Where Rule 6.4(d) applies, such date is the date on which the status of international  
depositary authority was acquired.

BUDAPEST TREATY OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURE

INTERNATIONAL FORM

TO Young

Dr. Bong Kwon  
Dept. of Microbiology and Immunology  
Indiana University School of Medicine  
635 Barnhill Drive, Room 255  
Indianapolis, IN 46202-5120

VIABILITY STATEMENT

issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS OF THE PARTY TO WHOM  
THE VIABILITY STATEMENT IS ISSUED

I. DEPOSITOR

II. IDENTIFICATION OF THE MICROORGANISM

Name: Dr. Bong Kwon  
Dept. of Microbiology  
and Immunology  
Address: Indiana University School  
of Medicine  
635 Barnhill Drive, Room 255  
Indianapolis, IN 46202-5120

Depositor's taxonomic designation and  
accession number given by the  
INTERNATIONAL DEPOSITARY AUTHORITY:

*Escherichia coli* NRRL B-21131

Date of: August 25, 1993<sup>1</sup>

- ☒ <sup>2</sup> Original Deposit  
☐ <sup>2</sup> New Deposit  
☐ <sup>2</sup> Repropagation of Original Deposit

III. (a) VIABILITY STATEMENT

Deposit was found: ☒ Viable ☐ Nonviable on August 28, 1993 (Date)  
International Depositary Authority's preparation was found viable on September 3, 1993 (Date)<sup>2</sup>

III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION

Depositor determined the International Depositary Authority's preparation was  
☒ <sup>2</sup> Equivalent ☐ <sup>2</sup> Not equivalent to deposit on Aug. 28, 1993 (Date)

Signature of Depositor: *Bong Kwon*

IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositors/Depository)<sup>4</sup>

*The content in the vial was inoculated in L-broth and cultured overnight  
at 37°C. The bacteria were grown. plasmid was prepared from the  
bacteria and analyzed*

V. INTERNATIONAL DEPOSITARY AUTHORITY

Name: Agricultural Research Culture  
Collection (NRRL)  
International Depositary Authority  
Address: 1815 N. University Street  
Peoria, Illinois 61604 U.S.A.

Signature(s) of person(s) having the power  
to represent the International Depositary  
Authority or of authorized official(s):

Date: 9-30-93

<sup>1</sup> Indicate the date of the original deposit, or when a new deposit has been made.

<sup>2</sup> Mark with a cross the applicable box.

<sup>3</sup> In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

<sup>4</sup> Fill in if the information has been requested.